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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,421

11/12/2003

Wade Carter

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21924 7590 12/30/2008  
ARRIS INTERNATIONAL, INC  
3871 LAKEFIELD DRIVE  
SUWANEE, GA 30024

EXAMINER

TRAN, NGHI V

ART UNIT

PAPER NUMBER

2451

MAIL DATE

DELIVERY MODE

12/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/706,421	<b>Applicant(s)</b> CARTER ET AL.	
	<b>Examiner</b> NGHI V. TRAN	<b>Art Unit</b> 2451	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. This office action is in response to the amendment filed on October 02, 2008. No claims have been amended. No claims have been canceled. Therefore, claims 1-25 are presented for further examination.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4 and 6-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Synnestvedt et al., United States Patent Number 6,598,057 (hereinafter Synnestvedt).

4. With respect to claims 1, 13, and 18, Synnestvedt teaches a method for configuring a first network device [= cable modem **102**] in a communication network [= Internet **108**] [see abstract], comprising:

- selecting one or more subsets of a plurality of standardized network equipment configuration parameters [= selects parameters based on policies, step 308 of fig.3] by setting a variable to a certain value [= generate

- configuration file, step 310 of fig.3] corresponding to the subset [fig.3 and col.4, ll.9 through col.5, ll.32];
- saving the values [= resulting configuration can be generated according to the DOCSIS configuration file standard, see abstract] corresponding to the selected subsets to a database entry [= a local configuration database, col.6, ll.61-62] on a server [= the configuration policy data being optionally cached on the TFTP server, see abstract] with a user interface [= configuration file being viewable through a user interface, see abstract and col.7, ll.5-40];
  - loading the configuration parameters from the server to the first network device [= sending binary configuration file to the cable modem in step 316 of fig.3 and col.5, ll.9-10]; and
  - setting software switches within the first network device based on the configuration file [= software upgrades as well as providing the new service of dynamically generating DOCSIS compliant configuration files to cable modem, col.3, ll.40-53].
5. With respect to claims 2 and 14, Synnestvedt further teaches wherein the subset or subsets are selected with a user interface [= configuration file being viewable through a user interface, see abstract].
6. With respect to claim 3, Synnestvedt further teaches wherein the user interface is a computing device [= computer **100**].

7. With respect to claims 4 and 15, Synnestvedt further teaches wherein the computing device is a personal computer [= computer **100**].
8. With respect to claims 6 and 16, Synnestvedt further teaches wherein the server is a trivial file transfer protocol server [= TFTP server **124**].
9. With respect to claim 7, Synnestvedt further teaches wherein the first network device is an embedded MTA [= EMTA within cable modem **102**].
10. With respect to claims 8 and 17, Synnestvedt further teaches wherein the communication features facilitate communication between the first network device [= cable modem **102**] and a second network device [= cable headend **118** including cable modem termination service **104**] [fig.1].
11. With respect to claim 9, Synnestvedt further teaches wherein the second network device is a cable modem termination system [=cable headend **118** including cable modem termination service **104**].
12. With respect to claim 10, Synnestvedt further teaches wherein the second network device is a PacketCable provisioning server [= CMTS modem provision object, col.9, ll.10-62].

13. With respect to claim 11, Synnestvedt further teaches wherein the second network device is a media gateway [= CMTS may includes a media gateway].

14. With respect to claim 12, Synnestvedt further teaches wherein the second network device is a PacketCable call management server [= CMTS, col.2, ll.17-18].

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Synnestvedt.

17. With respect to claim 5, Synnestvedtt does not explicitly show that the computing device is a personal digital assistant. However, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Synnestvedtt by implementing the computing device as a personal digital assistant because this feature increases flexibility for users.

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18. Claims 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Synnestvedt in view of Bahlmann, United States Patent Number 6,393,478 (hereinafter Bahlmann).

19. With respect to claim 19, Synnestvedt teaches a method for designating one or more of a plurality of communication parameters [= selects parameters based on policies, step 308 of fig.3] and features making up a communication protocol standard specification as belonging in a predetermined subset of said plurality of parameters [fig.3 and col.4, ll.9 through col.5, ll.32] and features, comprising:

- collecting information [= collect all the policy action objects, col.11, ll.66-67 ] associated with each one of a plurality of networking devices that are purported to implement and support said standard, said information including the parameters [= DOCSIS configuration file parameters, see abstract and col.2, ll.36-67] and features that are supported by each of said plurality of networking devices [= software upgrades as well as providing the new service of dynamically generating DOCSIS compliant configuration files to cable modem, col.3, ll.40-53];
- features that are supported by each of said plurality of networking devices [= software upgrades as well as providing the new service of dynamically generating DOCSIS compliant configuration files to cable modem, col.3, ll.40-53];

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- associating the information corresponding to each device with the device [= sending binary configuration file to the cable modem in step 316 of fig.3 and col.5, ll.9-10];

However, Synnestvedt does not explicitly teach determining patterns of support and implementation of the parameters and features of devices of a similar type based on the association of information with its corresponding device and designating subsets of standard parameters and feature based on the determined patterns.

In a related art, Bahlmann discloses determining patterns of support and implementation of the parameters and features of devices of a similar type based on the association of information with its corresponding device and designating subsets of standard parameters and feature based on the determined patterns [figs.4-5 and col.10, ll.14-61].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Synnestvedt in view of Bahlmann by determining patterns of the parameters because this feature allows personnel to search for devices on the network [Bahlmann, col.2, ll.13-14]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to contain embedded utilities that allow personnel to communicate with the devices, ask them for current parameters, send them new parameters, execute remote procedure calls, and even download software upgrades [Bahlmann, col.2, ll.18-21].



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20. With respect to claim 21, Synnestvedt further teaches wherein the type of device is an embedded MTA [= EMTA within cable modem **102**].

21. With respect to claim 22, Synnestvedt further teaches wherein the type of device is CMTS [= cable headend **118** including cable modem termination service **104**].

22. With respect to claim 23, Synnestvedt further teaches wherein the type of device is provisioning server [= CMTS modem provision object, col.9, ll.10-62].

23. With respect to claim 24, Synnestvedt further teaches wherein the type of device is call management server [= CMTS, col.2, ll.17-18].

24. With respect to claim 25, Synnestvedt further teaches wherein the type of device is media gateway [= CMTS may include a media gateway].

25. With respect to claim 20, Synnestvedt does not explicitly show determining patterns of features and parameters that are supported by devices of the same manufacturer.

In a related art, Bahlmann discloses determining patterns of features and parameters that are supported by devices of the same manufacturer [fig.13 and col.13, ll.4-51].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Synnestvedt in view of Bahlmann by determining patterns of features and parameters that are supported by devices of the same manufacturer because this feature allows personnel to search for devices on the network [Bahlmann, col.2, ll.13-14]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to contain embedded utilities that allow personnel to communicate with the devices, ask them for current parameters, send them new parameters, execute remote procedure calls, and even download software upgrades [Bahlmann, col.2, ll.18-21].

### ***Response to Arguments***

26. Applicant's arguments filed October 02, 2008 have been fully considered but they are not persuasive because of the following: Synnestvedt teaches a method for configuring a first network device [= cable modem **102**] in a communication network [= Internet **108**] [see abstract], comprising: selecting one or more subsets of a plurality of standardized network equipment configuration parameters [= selects parameters based on policies, step 308 of fig.3] by setting a variable to a certain value [= generate configuration file, step 310 of fig.3] corresponding to the subset [fig.3 and col.4, ll.9 through col.5, ll.32]; saving the values [= resulting configuration can be generated according to the DOCSIS configuration file standard, see abstract] corresponding to the selected subsets to a database entry [= a local configuration database, col.6, ll.61-62] on a server [= the configuration policy data being optionally cached on the TFTP server,

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see abstract] with a user interface [= configuration file being viewable through a user interface, see abstract and col.7, ll.5-40]; loading the configuration parameters from the server to the first network device [= sending binary configuration file to the cable modem in step 316 of fig.3 and col.5, ll.9-10]; and setting software switches within the first network device based on the configuration file [= software upgrades as well as providing the new service of dynamically generating DOCSIS compliant configuration files to cable modem, col.3, ll.40-53]..

27. In response to applicant's arguments that no such actual DOCSIS parameters are present in the configuration file of the present claims, the examiner respectfully disagrees. Synnestvedt teaches generating configuration files at step 310 based on selected parameters at step 308 in fig.3. Therefore, Synnestvedt discloses the claimed feature as show in above.

28. In response to applicant's argument that the present application creates a config file that governs firmware switches executed by the EMTA to switch on and/or off subsets of PacketCable specified functionality, the examiner respectfully disagrees. Applicant's argument does not commensurate with the scope of the claim. Claim 1 directly or indirectly recites setting software switches within the first network device based on the configuration file. However, claim 1 does not recite the limitation of "creates a config file that governs firmware switches executed by the EMTA to switch on

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and/or off subsets of PacketCable specified functionality” (emphasis added). Therefore, Synnestvedt discloses the claimed feature as show in above.

### ***Conclusion***

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Thursday and every other Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451